

August 30, 2018

Mr. Eric J. Chodnicki
Daft McCune Walker, Inc.
501 Fairmount Avenue
Suite 300
Towson, Maryland 21286

RE: Broadmead, Building Expansion
Forest Conservation Variance
Tracking # 03-18-2773

Dear Mr. Chodnicki:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on July 25, 2018. An updated specimen tree inventory was included with the application. The variance seeks approval to remove nine specimen trees on the property for the construction of two (2), fifty-two (52) unit buildings; the reconfiguring and relocating of the entrance road, Copper Beach Lane; the widening of York Road (MD-45); and the installation of numerous, proposed environmental site design bioretention facilities as part of an expansion on this existing, long-standing senior living facility. The submission shows that two additional specimen trees will receive minor impacts not to exceed one third of their critical root zones and that impacts to those trees will be minimized through the use of tree protection fence. It should be further noted that five additional specimen trees will be removed as part of this expansion, bringing the total to fourteen, but that those trees were considered cleared in 2007 in accordance with approved plan FC-07-125. Of the nine specimen trees currently proposed to be removed, only four are native and in fair condition or better. The applicant proposes to pay a fee-in-lieu of mitigation for the healthy native specimen trees to be removed.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the

requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking building expansion and infrastructure improvements on the senior living facility that existed well prior to the effective date of the Forest Conservation Law. While the application of the law would provide a hardship, it does not deprive the petitioner of all use of the property and so this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The expansion of the long-standing senior living facility and improvements to existing infrastructure as well as the locations and extent of existing specimen trees are due to unique circumstances associated with the property rather than the general conditions in the neighborhood. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The expansion efforts will not result in a change in use of the property and will not alter the essential character of the neighborhood. The infrastructure improvements should improve water quality and public safety of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. This project is not impacting forest, is honoring the Forest Buffer Easements and Forest Conservation Easements and their covenants, conditions and restrictions established in 2007 under FC-07-125 and will meet current water quality management requirements through environmental site design. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Permitting the removal of nine additional specimen trees, while accepting a fee-in-lieu of mitigation for the healthy native specimen tree to be removed, in conjunction with an expansion of an existing, long-standing senior living facility that has complied with both the Forest Buffer Law and the Forest Conservation Law would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. A \$3,543.41 fee-in-lieu of mitigation for the removal of the four native specimen trees in fair condition or better shall be paid to Baltimore County prior to this Department's approval of the grading permit. Fee checks must be made payable to Baltimore County.
2. Prior to issuance of any Baltimore County permit, blaze orange high visibility fence shall be installed along the limit of disturbance (LOD) wherever the LOD is within 50 feet of any remaining specimen tree, Forest Conservation Easement, or Forest Buffer Easement. This protective fence shall be illustrated on the plan view and mentioned in the sequence of operations on both the sediment control and the updated final Forest Conservation Plans.
3. Where necessary the outer limits of the Forest Conservation Easement and/or Forest Buffer Easement shall be permanently reposted at 100-foot intervals or at any turning point with "Forest Conservation-Do Not Disturb" signs, which are available from private sign contractors. The signs must be reinstalled prior to issuance of any permits for the expansion project or by January 2, 2019, whichever comes first.
4. The following notes must appear on all subsequent plans for this project:
 - "A special variance was granted on August 29, 2018 to Baltimore County's Forest Conservation Law to allow permanent impacts to nine specimen trees onsite. Conditions were placed on this variance, including paying a fee-in-lieu of \$3,543.41 and protecting the remaining specimen trees onsite."
 - "A special variance to Baltimore County's Forest Conservation Law may be required for future removal of any specimen trees within this property."
5. The existing, approved final forest conservation plan, FC-07-125, shall be revised to reflect the latest changes prior to grading and sediment control plan approval.
6. This variance applies to activities occurring on Parcel 559 and does not include the approximately 9.2 acre Parcel 42, formerly the Provenza Property, since the design of the ingress and egress at York Road has not been finalized

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and since that property has a separate special variance conditional approval (tracking # 03-17-2411). Please note specimen tree and forest impacts occurring to the north of Parcel 559 must be finalized prior to approval of the grading and erosion & sediment control plans. Furthermore, please note that the latest approval does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the appropriate representative sign the statement on the following page and return a signed copy of this entire letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/msk

C. Marian Honeczy, Maryland DNR

I/we agree to the conditions enumerated in this approval letter to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Broadmead Representative

Date

Printed Name